Rs 100/-

(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR
WRIT PETITION NO.244/2004

PETITIONER:

Umesh Chandra Gupta, S/o. Mewalal Gupta, aged about 38 years, R/o. Baikunthpur, near bus stand, Distt. Koria [C.G.]

VERSUS

RESPONDENTS

1. Collector, Koria
Baikunthpur,
Distt. Koria [C.G.]

2. Chief Municipal Officer,
Nagar Panchayat,
Baikunthpur,
Distt. Koria [C.G.]

P. R. No. 24/02/04
Presented by Shri Meena Thakur
on 5-8-04

PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 2414/ सन् 2004

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	19.8.2004 Shri J.K. Shastri, counsel for the petitioner. Shri Bhaskar Pyasi, Panel Lawyer for the State/respondent No.1. Shri Sanjay K. Agrawal, counsel for respondent No.2. The petitioner has preferred this writ petition with the averments that the petitioner along with seven other persons has established their shops on the Nazul land bearing survey No.102/1 in the size of 20 x 30 ft. on the road side near the bus stand at Baikunthpur District: Korea. The State land has not been transferred to the concerned Nagar Panchayat, but respondent No.2 has constructed a shopping complex behind the above stated shops of the petitioner and other persons under IDSMT scheme. Respondent No.2 has promised all the previous shopkeepers of that land to allot one shop to each of them at only cost value. Copy of the resolution is Annexure P-1. Respondent No.2 after completing the shopping complex allotted shops only to six previous shopkeepers except the petitioner and one Tekchand Nagwani. The petitioner through his real brother with Tekchand Nagwani made a complaint before authority stating all above aspects. The authority, taking action on the complaint, is going to provide one shop to Tekchand Nagwani, but the petitioner is deprived. There are 36 shops in the said shopping complex. Each previous shopkeeper is allotted their shops just behind his previous shop. Shop No.23 is the shop of shopping complex, which is situated just behind the previous shop of the petitioner for which he is entitled. The petitioner is in continuous possession of the land of Nazul making a shop.	

[पीछे देखिये

XI-HC-22

(49)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.244/ सन् 2004

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Return has been filed on behalf of respondent No.2 in which it has been mentioned in para 4 that shop No.23 cannot be allotted to the petitioner as he is having a Kachha shop at the new bus stand and he is a contractor by profession. It has further been mentioned that in the year 2001 the petitioner had taken on contract from Nagar Panchayat right to recover Paryavaran Pravesh Shulk. Copy of the contract showing that he is a contractor and had taken contracts from the Nagar Panchayat is Annexure R-2 (A). In para 5 of the return it has been mentioned that apart from that the petitioner is running a shoe centre in the Ambikapur-Manendragarh Main road styled as Baba Shoe Centre which is owned by petitioner Umesh Chand Gupta and he is not running shop near the shopping complex, the same can be demonstrated by an application filed by the petitioner for registration before the Nagar Panchayat, which is marked as Annexure R-2 (B). It has been further mentioned that the petitioner has used that Kachha shop only for the purpose of godown. Therefore, he is not entitled for any relief and the petition deserves to be dismissed. I have heard learned counsel for the parties. Learned counsel for the petitioner submitted that if stay is not granted then the right of the petitioner will be effected as he was already running a shop in front of shop No.23 of the shopping complex. Therefore, auction of at least shop No.23 be stayed. On the other hand, learned counsel for respondent No.2 argued that in the first instance, the petitioner had never made any representation before respondent No.2 for allotting him any shop claiming that he is running a shop in	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

front of the shopping complex which has been constructed. Further, he submitted that the petitioner is already having a shoe centre and apart from that he is also doing the work of contractor, which is evident from Annexure R-2 (A).

Having heard the learned counsel for the parties, having regard to the facts and circumstances of the case and having perused the record, the petitioner has not denied by filing rejoinder that he is not running Baba Shoe Centre and that he had not taken contract for collection of Paryavaran Pravesh Shulk. This fact has also not been denied that the petitioner himself never made a representation before respondent No.2 for allotting shop in the shopping complex. Even though, an application was made by the petitioner's brother namely, Krishna Chand Gupta, as he was not running any trolley or shop in front of the shopping complex, therefore his application was not allowed. That application cannot be termed as it was filed on behalf of the petitioner.

In view of the above facts and circumstances of the case, the petitioner has no prima facie case. Therefore, the petition is liable to be dismissed and it is accordingly, dismissed. at the admission stage itself.

Consequently, M.(W.)P.No.2137/2004 stands disposed of.

Sd/-
L.C.BHADOO
Judge

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